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DIAMOND MCCARTHY LLP

909 Fannin, Suite 1500
Houston, Texas 77010
Telephone (713) 333-5100
Facsimile (713) 333-5199

Allan B. Diamond, TX State Bar No. 05801800
Email: adiamond@diamondmccarthy.com
Eric D. Madden, TX State Bar No. 24013079
Email: emadden@diamondmccarthy.com

Special Litigation Counsel for USACM Liquidating Trust

LEWIS AND ROCA LLP

3993 Howard Hughes Parkway, Suite 600
Las Vegas, NV 89169-5996
Telephone (702) 949-8320
Facsimile (702) 949-8321

Susan M. Freeman, AZ State Bar No. 004199
Email: sfreeman@lrlaw.com
Rob Charles, NV State Bar No. 006593
Email: rcharles@lrlaw.com

Counsel for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE
COMPANY,

USA CAPITAL REALTY ADVISORS,
LLC,

USA CAPITAL DIVERSIFIED TRUST
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED
FUND, LLC,

USA SECURITIES, LLC,

Debtors.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR
Case No. BK-S-06-10729-LBR

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

**MOTION FOR ORDER REQUIRING
BRYAN CAVE LLP TO PRODUCE
ONE OR MORE CORPORATE
REPRESENTATIVES FOR
EXAMINATION PURSUANT TO
FEDERAL RULE OF
BANKRUPTCY PROCEDURE 2004**

[No hearing required]

Pursuant to Federal Rule of Bankruptcy Procedure 2004, the USACM Liquidating Trust (the "Trust") hereby moves this Court for an order requiring Bryan Cave LLP ("Bryan Cave") to produce one or more corporate representatives, as set forth in the subpoena to be issued under Federal Rule of Bankruptcy Procedure 9016, to appear for

1 examination at the office of Bryan Cave LLP, One Metropolitan Square, 211 North
2 Broadway, Suite 3600, St. Louis, Missouri 63102-2750, on a business day no earlier than
3 ten (10) business days after the filing of this Motion and no later than April 10, 2008 (or at
4 such other mutually agreeable location, date, and time) and continuing from day to day
5 thereafter until completed.
6

7 This Motion is further explained in the following Memorandum.

8
9 **Memorandum**

10 On March 7, 2007, the Trust filed its original Motion for Order Requiring Bryan
11 Cave LLP to Produce One or More Corporate Representatives for Examination Pursuant to
12 Fed. R. Bankr. P. 2004 (the "Original Rule 2004 Motion") (Docket Entry 3010). On
13 March 9, 2007, the Court entered its Order Requiring Bryan Cave LLP to Produce One or
14 More Corporate Representatives for Examination Pursuant to Fed. R. Bankr. P. 2004 (the
15 "Original Rule 2004 Order") (Docket Entry 3033).
16

17 The Trust subsequently issued and served a Rule 2004 subpoena on Bryan Cave. In
18 response, Bryan Cave filed a Motion to Quash Subpoena or, in the Alternative, for
19 Protective Order in the United States Bankruptcy Court for the Eastern District of
20 Missouri (under Miscellaneous Action No. 07-00401-A659). On November 8, 2007,
21 following a series of negotiations, the Trust and Bryan Cave entered into a Stipulation and
22 Order Regarding Motion to Quash Subpoena or, In the Alternative, for Protective Order
23 (the "Stipulation") that was approved by the United States Bankruptcy Court for the
24
25
26

1 Eastern District of Missouri. A true and correct copy of the Stipulation is attached hereto
2 as Exhibit A.

3 Pursuant to the terms of the Stipulation, Bryan Cave is not required to produce a
4 representative for examination pursuant to the subpoena that was issued under the Original
5 Rule 2004 Order. However, paragraph AA of the Stipulation expressly states that the
6 Trust may seek leave of the Court to conduct an examination of a designated
7 representative of Bryan Cave following the conclusion of a review of the documents
8 produced to the Trust. Representatives of the Trust recently conducted a review of
9 documents at the offices of Bryan Cave on March 10 and 11, 2008.
10

11 The Trust therefore seeks authority from this Court to conduct an examination
12 under Rule 2004 of a designated representative of Bryan Cave who can give information
13 concerning various transactions and other dealings between USACM, the other debtors in
14 the above-captioned cases (together with USACM, the “Debtors”), and the Debtors’
15 affiliates, subsidiaries, parents, or otherwise related entities.¹ The Trust seeks this
16 information to assist in the collection of the assets and the investigation of the liabilities of
17 the Debtors.
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19
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21 The requested discovery from Bryan Cave is well within the scope of examination
22 permitted under Bankruptcy Rule 2004, which includes:

23 [t]he acts, conduct, or property or . . . the liabilities and financial condition
24 of the debtor, or ... any matter which may affect the administration of the

25 ¹ The Trust seeks a designated representative to testify on various matters, including the
26 scope of Bryan Cave’s representation the Debtors and related entities, the reasons why
Bryan Cave terminated its relationship with the Debtors, the options that Bryan Cave
considered or recommended in lieu of such termination, and other matters to be identified
in a Rule 2004 subpoena.

debtor's estate, or to the debtor's right to a discharge. In a . . . reorganization case under chapter 11 of the Code, . . . the examination may also relate to the operation of any business and the desirability of its continuance, the source of any money or property acquired or to be acquired by the debtor for purposes of consummating a plan and the consideration given or offered therefore, and any other matter relevant to the case or to the formulation of a plan.²

Conclusion

Accordingly, the Trust requests that this Court enter the form of order submitted with this Motion.

Dated: March 11, 2008.

DIAMOND MCCARTHY LLP

LEWIS AND ROCA LLP

By: /s/ Eric D. Madden
 Allan B. Diamond, TX 05801800 (pro hac vice)
 William T. Reid, IV, TX 00788817 (pro hac vice)
 Eric D. Madden, TX 24013079 (pro hac vice)
 909 Fannin, Suite 1500
 Houston, Texas 77010
 (713) 333-5100 (telephone)
 (713) 333-5199 (facsimile)

By: /s/ Rob Charles
 Susan M. Freeman, AZ 4199 (pro hac vice)
 Rob Charles, NV 6593
 3993 Howard Hughes Parkway, Suite 600
 Las Vegas, Nevada 89169-5996
 (702) 949-8320(telephone)
 (702) 949-8321(facsimile)

*Special Litigation Counsel for
 USACM Liquidating Trust*

Counsel for USACM Liquidating Trust

² FED. R. BANKR. P. 2004(b).